

ORIGINAL

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FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII
MAY 13 2008
at o'clock and 10 min. M.
SUE BEITIA, CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

SUSAN K. WARREN,

Plaintiff,

vs.

MARRIOTT INTERNATIONAL,
INC.,

Defendant.

CIVIL NO. **CV08 00217**

COMPLAINT; DEMAND FOR
JURY TRIAL; SUMMONS

ACKBNK

COMPLAINT

Plaintiff SUSAN K. WARREN, through her undersigned counsel, avers and alleges as follows:

JURISDICTION

1. This court has jurisdiction pursuant to 28 U.S.C. § 1332 on the basis of the parties' diversity of citizenship and damages in excess of the jurisdictional requirement. The Court is also asked to exercise pendant jurisdiction over the plaintiff's factually and legally related state common law claim of negligence pursuant to 28 U.S.C. § 1367.

VENUE

2. The venue is proper in this Court because all matters and events are directly connected to the District of Hawaii.

PARTIES

3. Plaintiff WARREN ("WARREN") is a resident of Lihue, Hawaii, who was at the material time an invitee on the defendant's premises.

4. Defendant MARRIOTT INTERNATIONAL, INC. ("MARRIOTT") is a foreign profit corporation operating a hotel with at least one on-premises restaurant in the District of Hawaii known as the Kauai Marriott Resort & Beach Club and located at 3610 Rice Street, Lihue, Hawaii. MARRIOTT is incorporated in Delaware and has been registered in the State of Hawaii since 1997. Upon belief MARRIOTT is in good standing with the State of Hawaii Department of Commerce & Consumer Affairs' Business Registration Division.

5. WARREN alleges to have sustained severe permanent injuries as a proximate cause of MARRIOTT's breach of the duty of care it owed her, resulting in damages that substantially exceed diversity jurisdiction's requirement.

FACTS

6. On December 16, 2006, WARREN was patronizing MARRIOTT's enterprise in Lihue known as the Kauai Marriott Resort & Beach Club. She had dined at a restaurant on MARRIOTT's property.

7. On that date WARREN accompanied her companion and fellow patron to their vehicle, walking down a sidewalk parallel to a portion of MARRIOTT's building and under its control. MARRIOTT knew or should have known that it was reasonable for persons to walk on that sidewalk despite the fact MARRIOTT also knew or should have known the swing of a door built into the building that MARRIOTT had designated as a fire door and intended to be used as an emergency exit would encroach on the space occupied by a person walking down the middle of the sidewalk.

8. As they walked down that sidewalk, WARREN and her companion passed that fire door/emergency exit which MARRIOTT knew or should have known opened away from the building onto the sidewalk and into the space likely to be occupied by persons such as they who were walking down the middle of the sidewalk.

9. MARRIOTT took no precautionary actions to prevent or dissuade persons from using that sidewalk despite the fact that MARRIOTT knew neither the sidewalk nor the door had any markings or signs to warn persons walking down the sidewalk that there was a door that opened out onto the sidewalk and created a danger it would strike persons walking down the middle of the sidewalk.

10. No effective precautionary actions were taken to warn persons walking down the sidewalk passing by the door that it was about to open onto the sidewalk.

11. On December 16, 2006, the door suddenly sprang open with great force and speed, swinging into the space where WARREN was walking, and struck her violently on the right side of her body as she passed the door.

12. As a result of the powerful blow struck by the door WARREN sustained severe and permanent injuries for which she has needed and continues to need medical treatment.

13. As an innkeeper MARRIOTT owed an enhanced legal duty to use care to avoid injuring its guests such as WARREN.

14. On December 16, 2006, MARRIOTT breached its legal duty by failing to use requisite care to avoid injuring WARREN.

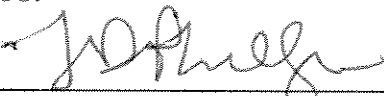
15. MARRIOTT's breach of duty was the proximate cause of severe permanent injuries to WARREN.

16. WARREN is consequently entitled to monetary damages in excess of the Court's jurisdictional requirement in an amount to be shown at trial.

THEREFORE THE PLAINTIFF SEEKS:

- A) Judgment in her favor and against the defendant;
- B) Legal relief in the form of compensatory and punitive damages in an amount substantially more than the court's jurisdictional requirement;
- C) Costs of suit and related litigation expenses;
- D) Prejudgment and postjudgment interest; and
- F) All such other relief she might further seek to which she has a right.

DATED: Honolulu, Hawaii, 5/12/08.




LUNSFORD DOLE PHILLIPS
Attorney for Plaintiff

DEMAND FOR JURY TRIAL

Plaintiff WARREN requests trial by jury on all issues so triable.

DATED: Honolulu, Hawaii, 5/9/08



LUNSFORD DOLE PHILLIPS
Attorney for Plaintiff